



Hundredth Legislature - First Session - 2007
Revised Committee Statement
LB 377

Hearing Date: February 28, 2007 and March 30, 2007(Rehearing)
Committee On: Judiciary

Introducer(s): (Ashford)

Title: Reallocate district court judgeships and with Amendment 832: Amend Captial sentencing provisions

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

- | | | |
|---|---------------------|---|
| 6 | Yes | Sen. Ashford, Sen. Lathrop, Sen. Chambers, Sen. MCGill, Sen. Pedersen, Sen. Schimek |
| 2 | No | Sen. McDonald, Sen. Pirsch |
| | Present, not voting | |
| | Absent | |
-

Hearing for March 30, 2007: LB 377 with Amendment 832: Amend Captial sentencing provisions

Proponents:

Sen. Ashford
Thomas Riley
Jerry Soucie
Amy Miller
Jim Cunningham
Terry Werner

Representing:

Introducer
Douglas County Attorney Public Defender
Self
ACLU Nebraska
Nebraska Catholic Conference
NE Chapter of the National Assoc. of Social Workers

Opponents:

Shirley Anderson
Joe Kelley
Steve Gabrial

Virgil Jacob
Bill Sun

Representing:

Self
Chief Deputy Lancaster County
NE County Atty's Assoc. Douglas County
Attorney's Office
Legal Aids
Self

Ben Sun
Dennis Van Fossen

Self
Self

Neutral:

Kirk Brown
James Mowbray

Representing:

Solicitor General of NE Department of Justice
NE Commission on Public Advocacy

Hearing for February 28, 2007: LB 377; Reallocate district court judgeships

Proponents:

Sen. Ashford
Paul Merritt

Representing:

Introducer
Self

Opponents:

None

Neutral:

None

Summary of purpose and/or changes:

Legislative Bill 377 amends N.R.S. §24-301.02 to increase the number of district court judges in District 9 (Buffalo and Hall Counties) from three to four.

LB 377 contains an emergency clause.

Explanation of amendments, if any:

COMMITTEE AMENDMENT

The committee amendment to LB 377, AM 912, replaces the green copy and with a proposal to amend Nebraska's capital sentencing statutes to require the factfinder in the sentencing phase of a capital case to unanimously make the following finding beyond a reasonable doubt: That the offender poses a present and substantial risk to the lives of others which cannot reasonably and effectively be controlled by institutional security measures. This finding is referred to as the "effective security issue", and is made at the hearing on the determination of aggravating factors.

If the factfinder answers this question in the affirmative, it proceeds to determine the presence of aggravating factors, but if the answer is in the negative, that the individual can be safely incarcerated, the sentencing phase concludes and the offender receives a sentence of life without parole. The amendment is intended to be prospective in application and applies to sentencing proceedings occurring on and after the effective date of the act. Lastly, AM 912 strikes and reinstates the words “without parole” where currently found in statute. This change reinstates language that was found to be void by the Nebraska Supreme Court in the case of *State v. Conover* and is intended not to be substantive but is made for the purpose of clarifying and explaining that the existing minimum penalty for first degree murder is life imprisonment without parole eligibility.

Senator Brad Ashford, Chairperson